

IN THE UNITED STATES DISTRICT COURT
FOR THE Middle DISTRICT OF PENNSYLVANIA
DIVISION

(Write the District and Division, if any, of the
court in which the complaint is filed.)

Ernesto José Chávez Rodríguez
Reg No. 67221-079

(Write the full name of each plaintiff who is filing
this complaint. If the names of all the plaintiffs
cannot fit in the space above, please write "see
attached" in the space and attach an additional
page with the full list of names.)

-against-

See Attach
United States Bureau of Prisons,
Allenwood United States Penitentiary
Health Services/Medical Dept.

(Write the full name of each defendant who is
being sued. If the names of all the defendants
cannot fit in the space above, please write "see
attached" in the space and attach an additional
page with the full list of names. Do not include
addresses here.)

**Complaint for Violation of Civil
Rights**

(Prisoner Complaint)

Case No. 16-2531

(to be filled in by the Clerk's Office)

Jury Trial: ☐ Yes ☐ No
(check one)

**FILED
SCRANTON**

DEC 22 2016

Per 24

DEPUTY CLERK

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed *in forma pauperis*.

Defendants Attach.

Mr. L.J. Oddo warden at Allenwood US Penitentiary

Mr. Magyar M. Health services Administrator Allenwood US Penitentiary

Mr. Potope Health services Director Allenwood US Penitentiary

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Ernesto José Chávez Rodríguez

All other names by which you have been known:

José Ernesto Chávez Rodríguez

ID Number

67221079

Current Institution

Allenwood US Penitentiary

Address

P.O. Box 3000
White Deer, PA 17887**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Mr. L. J. Oddo

Name

~~Mr. L. J. Oddo~~Job or Title
(if known)Warden at Allenwood US Penitentiary

Shield Number

Employer

Federal Bureau of Prisons
Allenwood Penitentiary

Address

~~Allenwood Penitentiary~~ P.O. Box 3500
~~White Deer, PA 17887~~ White Deer, PA
17887☐ Individual capacity☒ Official capacity

Defendant No. 2

Mr. Magyar M.

Name

~~Mr. Magyar M.~~
Health Services Director
~~Mr. Magyar~~

**Job or Title
(if known)**

Health and
Medical Services ~~Department~~
at Allenwood US Penitentiary

Shield Number

Employer

Address

Federal Bureau of Prisons Allenwood Penit.
PO Box 3500
White Deer, PA 17887

☐ Individual capacity

☒ Official capacity

Defendant No. 3

Name

~~Mr. Potope~~ Mr. Potope

Job or Title
(if known)

Health Services / Medical services
AT Allenwood US Penitentiary

Shield Number

Employer

Address

Federal Bureau of Prison
Allenwood United States Penitentiary
PO Box 3500
White Deer, PA 17887

☐ Individual capacity

☒ Official capacity

Defendant No. 4

Name

~~XXXXXXXXXXXX~~

Job or Title
(if known)

~~XXXXXXXXXXXXXXXXXXXX~~

Shield Number

Employer

Address

~~United States Department of~~
~~Health and Human Services~~
~~Washington, D.C. 20492~~

☐ Individual capacity

☒ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- ☒ Federal officials (a *Bivens* claim)
☐ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Failure to obtain a Fair Medical Services,
Medical Services Negligence.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

The Right to obtain Fair Medical Services,
Post operation Medical Care, Equal services
and Treatment as other prisoners, Medical Negligence.

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

N/A

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee

- ☐ Convicted and sentenced state prisoner
- ☒ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

while in prison I received surgery for Carpal Tunnel on Nov-4-2016 and only 4 days I got pain medication while never after or during that time was seen, instructed or care for my wound until Nov-21-2016 By P.A. Craig, who removed stitches but never gave me any instructions or meds.

- C. What date and approximate time did the events giving rise to your claim(s) occur?

From Nov-4-2016 at 3:00 PM all the way to this current date of ~~Dec 11~~²² 2016 I have never been seen for post surgery treatment, given or receive medication

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I received surgery on Nov 4-2016 and at my arrival at the institution the officers who escorted me delivered all After Care Instructions to Medical services, but

I never got seen for my pain and suffering as well as extremely swollen Area of my hand Fingers for almost 17 days and after receiving the stitches removal I have never seen any medical officer to instruct me or care for my surgery after the Nov-4-2016
V. Injuries or neither did I receive medications for pain and swelling.

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I had a wound for the surgery on my Palm due to Carpal tunnel surgery and only Received Twice a day for 4 days Tylenol 3. My hand and Fingers were extremely swollen and I had extreme pain with Fever but never any one care for me or answer my Medical Requests to be seen. My Fingers were getting blueish for the bandage being so tight but all R.N on the Medical Rounds never attended my need and complaints.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I am requesting punitive damages for the amount of \$60,000 (Sixty thousand dollars 00/100) due to pain & suffering as well as psychological suffering due to anxiety and stress for the amount of \$50,000 (Fifty thousand dollar 00/100) a total of \$110,000 (one hundred ten thousand dls.) in all.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes *yes*
☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Allenwood united states Penitentiary, Federal
Bureau of Prisons

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes
☐ No
☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes
☒ No
☐ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes
☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

E. If you did file a grievance:

1. Where did you file the grievance?

through my unit Counselor of unit 1B
I intended a formal BP-8 Complaint
(Mr. Houser-Counselor 1-B) at
Allenwood United States Penitentiary

2. What did you claim in your grievance?

The Swelling, Pain, Fever and suffering
due to not getting After Care from
Medical Services and also the Failure
From medical to give me instructions for curing/cleaning

3. What was the result, if any?

None. Medical Services Rely only on
one P.A (Mr. Craig) to oversee inmates housed
in the SHU and P.A Craig had been gone on
Vacations so no one ever care to treat me.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

My Counselor intended to send a regular
E-Mail to Mr. Magyar (Head of Medical
Services) but never got an answer himself.
(Counselor 1B Mr. Houser)

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

I tried following the rest of steps to complaint but were not ever brought to me to file, and it's why I decided to start this Legal Action.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I did file grievance ^{ECN (BPO)} and also inform the following C.O. Officers of my Medical Needs & Suffering: Lt. Hamilton, Cptn. Feltman, RN Donlin, C.O. Hendrix, C.O. Wolfe, C.O. White, C.O. Thompson every day from Nov 4-2016 up to Nov 21st 2016. They can not help since ^{there is not} ~~there is not~~ ^{their Dept.}

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Every Time a Nurse or P.A. was on D Range of the SHU (where I Live) I intended and Attempt to get their Help but All of them Claimed Not to know what to do (P.A. GAYLORD, PA Donlin, PA Martinez, RN Russell
(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

There is no copies of Filed claims since the SHU Does not provides

VIII. Previous Lawsuits legal carbon copie Files, neither Medical Services

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

- ☐ Yes
☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)
- _____
- _____

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: Dec 16th, 2016

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Ernesto José Chávez Rodríguez
67221079
Allenwood United States Pen. Po Box 3500
White Deer PA 17887
City State Zip Code

B. For Attorneys

Date of signing: Dec 16th, 2016

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

Telephone Number

E-mail Address

Dec-16-2016

Office of the Clerk
United States District Court
Middle District of Pennsylvania

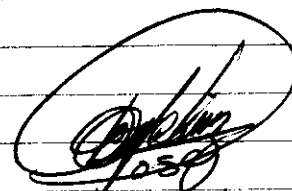
Ernesto José Chávez Rodríguez
Reg N° 67221079
P.O. BOX 3000
White Deer, PA 17887

I would like to Apologize for all the errors that I committed while filing the documents attached for the current claim.

Unfortunately I am being hold in the segregation unit awaiting to be transfer, that being so does not allowes me to obtain the right material to fix my errors and scratches on this documents.

Again I apologized for the mistakes and any inconvenience this may cause.

Sincerely.



Ernesto J. Chavez R.
Reg. N 67221079

